

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

CENTRAL STATES, SOUTHEAST AND  
SOUTHWEST AREAS PENSION FUND,  
and HOWARD McDUGALL, trustee,

**V.**

Plaintiffs,

BLOM TRUCKING, INC.,  
an Ohio corporation,

Defendant.

Case No.

Honorable  
District Judge

**FILED**  
**JANUARY 22, 2008**  
MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

**08 C 482**

**JUDGE KENNELLY**  
**MAGISTRATE JUDGE BROWN**

## COMPLAINT

Plaintiffs, Central States, Southeast and Southwest Areas Pension Fund and Howard McDougall, one of its present trustees, for a cause of action against Defendant Blom Trucking, Inc., an Ohio corporation, allege as follows:

## **JURISDICTION AND VENUE**

1. This is an action for collection of withdrawal liability, interest, and penalties incurred by an employer as a result of a withdrawal from a multiemployer pension plan.
2. This action arises under the Employer Retirement Income Security Act of 1974 (“ERISA”) *as amended* by the Multiemployer Pension Plan Amendments Act of 1980, 29 U.S.C. § 1001 *et seq.* (1982). This Court has jurisdiction over this action under sections 502(e), 502(f) and 4301(c) of ERISA, 29 U.S.C. §§ 1132(e), 1132(f) and 1451(c).
3. Venue lies in this Court under sections 502(e)(2) and 4301(d) of ERISA, 29 U.S.C. §§ 1132(e)(2) and 1451(d), because the Pension Fund is administrated at its

principal place of business in Rosemont, Illinois. Venue also lies in this Court pursuant to the Pension Fund Trust Agreement.

### **PARTIES**

4. Plaintiff Pension Fund is a multiemployer pension plan within the meaning of section 3(37) and 4001(a)(3) of ERISA, 29 U.S.C. §§ 1002(37) and 1301(a)(3). Plaintiff Howard McDougall is a present trustee of the Pension Fund and he and his fellow trustees are the plan sponsors of the Pension Fund within the meaning of section 4001(a)(10) of ERISA, 29 U.S.C. § 1301(a)(10). The Trustees administer the Pension Fund at 9377 West Higgins Road, Rosemont, Illinois, 60018.

5. Pursuant to sections 502(a)(3) and 4301(a)(1) of ERISA, 29 U.S.C. §§ 1132(a)(3) and 1451(a)(1), the Trustees are authorized to bring this action on behalf of the Pension Fund, its participants, and beneficiaries for the purpose of collecting withdrawal liability.

6. Defendant Blom Trucking, Inc. ("Blom") is an Ohio corporation with its principal place of business in the State of Ohio.

### **CLAIM FOR RELIEF**

7. During all relevant periods, Blom was bound by collective bargaining agreements with certain local unions affiliated with the International Brotherhood of Teamsters pursuant to which it was required to make contributions to the Pension Fund on behalf of certain of its employees.

8. Blom and all other trades or businesses under common control with it ("Blom Controlled Group") constitute a single employer within the meaning of Section 4001(b)(1) of ERISA, 29 U.S.C. § 1301(b)(1), and the regulations promulgated thereunder.

9. The Blom Controlled Group is the employer for purposes of the determination of withdrawal liability under Title IV of ERISA.

10. The Pension Fund determined that on or about April 28, 2007, Blom ceased to have an obligation to contribute to the Pension Fund or permanently ceased all covered operations, thereby effecting a “complete withdrawal,” as defined in section 4203 of ERISA, 29 U.S.C. § 1383.

11. As a result of this complete withdrawal, Blom incurred withdrawal liability to the Pension Fund in the original amount of \$439,587.51 as determined under section 4201(b) of ERISA, 29 U.S.C. § 1381(b).

12. On or about December 14, 2007, Blom received a notice and demand for payment of withdrawal liability issued by the Pension Fund in accordance with sections 4202(2) and 4219(b)(1) of ERISA, 29 U.S.C. §§ 1382(2) and 1399(b)(1). The notice and attached invoice notified Blom that pursuant to section 4219(c)(5)(B), 29 U.S.C. §1399(c)(5)(B) and Appendix E, section 5(e)(2)(E) of the Pension Plan, that it must discharge its liability in one payment totaling \$439,587.51.

13. Pursuant to sections 4219 (c)(2) and 4221(d) of ERISA, 29 U.S.C. §§ 1399(c)(2) and 1401(d), withdrawal liability payments must be made in accordance with the schedule set forth by the plan sponsor notwithstanding any request for review or arbitration.

14. The Blom Controlled Group has failed to make the withdrawal liability payments to the Pension Fund.

15. Blom did not timely initiate arbitration pursuant to section 4221(a)(1) of ERISA, 29 U.S.C. § 1401(a)(1). Consequently, the amounts demanded by the Pension Fund are due and owing pursuant to section 4221(b)(1) of ERISA, 29 U.S.C. § 1401(b)(1).

16. Blom failed to make the required withdrawal liability payments to the Pension Fund and fell into default within the meaning of section 4219(c)(5) of ERISA, 29 U.S.C. § 1399(c)(5).

**WHEREFORE**, Plaintiffs request the following relief:

(a) A judgment against Defendant Blom Trucking, Inc., pursuant to sections 502(g)(2) and 4301(b) of ERISA, 29 U.S.C. §§ 1132(g)(2) and 1451(b), for:

(1) \$439,587.51 in withdrawal liability;

(2) interest computed and charged at an annualized interest rate equal to two percent (2%) plus the prime interest rate established by Chase Manhattan Bank (New York, New York) for the fifteenth day of the month for which interest is charged;

(3) an amount equal to the greater of the interest on the withdrawal liability or liquidated damages of 20% of the withdrawal liability; and

(4) attorney's fees and costs.

(b) Post-judgment interest computed and charged on the entire judgment balance at an annualized interest rate equal to two percent (2%) plus the prime interest rate established by Chase Manhattan Bank (New York, New York) for the fifteenth day of the month for which interest is charged, compounded annually; and

(c) For such or different relief as this Court may deem proper and just.

Respectfully submitted,

/s/ Rebecca K. McMahon  
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